

P/R

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RAHMEL THOMPSON,

Petitioner,

-against-

JOHN LEMKE, Superintendent,
Five Points Corr. Facility

Respondent.

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08-CV-3426 (ARR)

NOT FOR ELECTRONIC
OR PRINT PUBLICATION

OPINION & ORDER

ROSS, United States District Judge:

On November 12, 2010, petitioner Rahmel Thompson filed a pro se motion to vacate judgment pursuant to Federal Rule of Civil Procedure 60(b). Dkt. No. 20. In his motion, he challenges this court's November 23, 2009 Order denying his petition for a writ of habeas corpus. Dkt. No. 13. Petitioner contends that the court committed legal error in denying his claim of ineffective assistance of trial counsel. Specifically, he asserts that, when reviewing the state court's denial of his ineffective assistance of counsel claim, this court should not have applied the deferential standard established by the Anti-Terrorism and Effective Death Penalty Act ("AEDPA"). 28 U.S.C. § 2254(d). Rather, he claims that the court should have applied pre-AEDPA standards and reviewed his claim de novo.

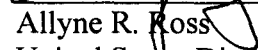
As set forth in the court's November 23 Order, AEDPA's deferential standard applies to a federal claim that has been "adjudicated on the merits" by the state court. Dkt. No. 13 at 8. In this case, petitioner's ineffective assistance of trial counsel claim was adjudicated on the merits by the state court. Id. at 9. Thus, AEDPA's deferential standard applied to that claim.¹ Id.

¹ The court notes that AEDPA's deferential standard also applied to petitioner's ineffective assistance of appellate counsel claim, which was adjudicated on the merits by the state court. Id. at 5, 20-21.

Because this court applied the correct legal standard when reviewing petitioner's ineffective assistance of trial counsel claim in its November 23 Order, petitioner's motion to vacate that judgment pursuant to Rule 60(b) is denied.

SO ORDERED.

/Signed by Judge Ross/



Allyne R. Ross
United States District Judge

Dated: April 15, 2011
Brooklyn, New York

SERVICE LIST:

Petitioner:

Rahmel Thompson

03-A-3043

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